

# COMMITTEE REPORT

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## MR. PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 222, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 health.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 16-18-2-254.5, AS ADDED BY P.L.52-1999,
- 6 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2001]: Sec. 254.5. (a) "Office", for purposes of IC 16-19-13,
- 8 refers to the office of women's health established by IC 16-19-13.
- 9 (b) "Office", for purposes of IC 16-28-15, refers to the office of
- 10 quality assurance established by IC 16-28-15-2.
- 11 SECTION 2. IC 16-28-4.5 IS ADDED TO THE INDIANA CODE
- 12 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 13 JULY 1, 2001]:
- 14 **Chapter 4.5. Licensure Inspections of Health Facilities**
- 15 **Sec. 1. An individual may not participate in a licensure**
- 16 **inspection of a health facility unless the individual, after being**
- 17 **hired as an employee of the state department:**
- 18 (1) has been assigned to a licensed health facility for at least
- 19 ten (10) days within a fourteen (14) day period to observe
- 20 actual daily operations at a health facility; and
- 21 (2) has received at least six (6) hours of Alzheimer's disease
- 22 and dementia specific training.
- 23 **Sec. 2. An individual may not participate in a licensure**
- 24 **inspection of a health facility at which the individual was an**
- 25 **employee in the previous five (5) years.**
- 26 **Sec. 3. While conducting a licensure inspection of a health**

1 facility, each individual who participates in a licensure inspection  
 2 at a health facility must record all conversations between the  
 3 individual and any of the following persons:

- 4 (1) Staff of the health facility.
- 5 (2) Residents of the health facility.
- 6 (3) Family members of a resident of the health facility.

7 All taped conversations are considered to be part of the individual  
 8 inspector's notes and documentation.

9 **Sec. 4. When the state department has completed a licensure**  
 10 **inspection of a health facility, the state department must have at**  
 11 **least one (1) individual who was a member of the inspection team**  
 12 **to provide the health facility with preliminary findings of the**  
 13 **citations, including the scope and severity of the citations.**

14 **Sec. 5. An individual who participates in a licensure inspection**  
 15 **of a health facility may not cite a health facility for the facility's**  
 16 **clinical protocols or best practice standards unless the individual**  
 17 **has consulted with a clinical expert in long term care appointed by**  
 18 **the state department.**

19 **Sec. 6. Not less than semiannually, the state department shall**  
 20 **provide joint training sessions with health facilities and individuals**  
 21 **who conduct health facility licensure inspections. The primary**  
 22 **topic of the joint training sessions must be the subject of at least**  
 23 **one (1) of the ten (10) most frequently issued federal citations in**  
 24 **Indiana during the preceding calendar year.**

25 SECTION 3. IC 16-28-5-2 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. ~~On~~ After a review  
 27 of an alleged breach by the office of quality assurance and a  
 28 determination by the commissioner that a breach of this article or a rule  
 29 adopted under this article has occurred, the director shall issue a  
 30 citation under IC 4-21.5-3-6 to the administrator of the health facility  
 31 in which the breach occurred. The citation must state the following:

- 32 (1) The nature of the breach.
- 33 (2) The classification of the breach.
- 34 (3) The corrective actions required of the health facility to remedy  
 35 the breach and to protect the patients of the facility.
- 36 (4) Any penalty imposed on the facility.

37 SECTION 4. IC 16-28-10-1 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) Hearings under  
 39 this article shall be conducted in accordance with IC 4-21.5. Except for  
 40 hearings held on the adoption of rules, an administrative law judge  
 41 must meet the following conditions:

- 42 (1) Be admitted to the practice of law in Indiana.
- 43 (2) Not be a member of the council or an employee of the state.
- 44 (3) **Be appointed by the office of quality assurance.**

45 (b) A health facility shall pay the costs of appointing an  
 46 administrative law judge if the administrative law judge finds in favor  
 47 of the state. However, if the administrative law judge finds in favor of  
 48 the health facility, the state shall pay the costs of appointing the  
 49 administrative law judge.

50 SECTION 5. IC 16-28-11-1, AS AMENDED BY P.L.218-1999,

SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) Except as provided in IC 16-28-1-11, ~~and IC 16-28-7-4, fines or fees~~ required to be paid under this article shall be paid directly to the director, who shall deposit the ~~fines or fees~~ in the state general fund.

(b) Except as provided in IC 16-28-7-4, fines required to be paid under this article shall be paid directly to the director, who shall deposit the fines as follows:

(1) Fifty percent (50%) in the state general fund.

(2) Fifty percent (50%) in the quality improvement and education fund established by section 4 of this chapter.

SECTION 6. IC 16-28-11-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The quality improvement and education fund is established. The state department shall administer the fund.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) The state department shall use the money in the fund for the following purposes:

(1) Education or training programs conducted by:

(A) the state department; or

(B) a health facility.

(2) Development of best practice guidelines and clinical protocols.

(3) Clinical research and other activities designed to improve the quality of care provided in health facilities.

(e) The state department may use money from the fund for an education or training program under subsection (d)(1)(B) only if the cost of the program is more than the amount waived under IC 16-28-5-4(c). The total of:

(1) the amount waived under IC 16-28-5-4(c); and

(2) the amount used from the fund under subsection (d)(1)(B); may not exceed the cost of the education or training program conducted by the health facility.

SECTION 7. IC 16-28-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

#### **Chapter 15. Office of Quality Assurance**

Sec. 1. As used in this chapter, "office" refers to the office of quality assurance established by section 2 of this chapter.

Sec. 2. The office of quality assurance is established within the state department.

Sec. 3. The office has the following duties and responsibilities:

(1) To review all health facility inspection recommendations for citations to determine if the recommended citation constitutes a breach under IC 16-28-5.

(2) To administer the informal dispute resolution process.

(3) To appoint administrative law judges needed under IC 16-28-10.

(4) To receive and review complaints from health facilities concerning inspectors or inspection teams.

Sec. 4. (a) The office shall review all health facility inspection recommendations for citations to determine if the recommended citation constitutes a breach under IC 16-28-5. The office shall be given access to all inspection notes and documentation, and if necessary, interview the individual inspectors. After evaluating the information, the office shall determine if there is sufficient evidence to issue a citation for the breach.

(b) The commissioner may not notify the administrator of the health facility of the alleged breach until after the review by the office under subsection (a) is completed.

Sec. 5. The office must be organized by the commissioner in such a manner as to assure that the office operates independently from the office of legal affairs and policy and the long term care division.

Sec. 6. The office may adopt rules under IC 4-22-2 necessary to implement this chapter.

SECTION 8. [EFFECTIVE JULY 1, 2001] (a) The state department of health shall report quarterly to the select joint committee on Medicaid oversight concerning licensure inspections of health facilities under IC 16-28. The report must include the following information:

(1) The number of inspections that were completed.

(2) The number of citations issued per inspection, including the scope and severity of the citations.

(3) The number of night and weekend inspections.

(4) The number of complaints received, investigated, and substantiated.

(5) The department's response time to investigate complaints.

(6) A summary of the citations that have been appealed to an informal dispute resolution process and the results of the appeals.

(7) A summary of the citations that have been appealed to an administrative law judge and the results of the appeals.

The information in the report must also compare the statistics with other states in Region V of the Health Care Financing Administration and for the country as a whole.

(b) This SECTION expires July 1, 2006.

SECTION 9. [EFFECTIVE JULY 1, 2001] (a) The state department of health shall hold public meetings to explain the following terms to ensure consistency in conducting licensure inspections of health facilities under IC 16-28:

(1) Immediate jeopardy.

(2) Harm.

(3) Potential harm.

(4) Avoidable.

- 1           **(5) Unavoidable.**  
2           **(b) During the public meetings conducted under subsection (a)**  
3           **the state department of health shall accept testimony from nursing**  
4           **home provider groups, the American Medical Directors**  
5           **Association, the state long term care ombudsman, the federal**  
6           **Health Care Financing Administration, and other interested**  
7           **parties.**  
8           **(c) This SECTION expires July 1, 2002.**  
              **(Reference is to SB 222 as introduced.)**

**and when so amended that said bill be reassigned to the Senate Committee on Health and Provider Services.**

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GARTON                      Chairperson